

Executive Summary – Enforcement Matter – Case No. 41836
Whole Woman's Health of Austin, LLC
RN106143704
Docket No. 2011-0954-MSW-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MSW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Whole Woman's Health of Austin, 8401 North Interstate Highway 35, Suite 200, Austin,
Travis County

Type of Operation:

Medical clinic

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but
does not wish to speak at Agenda.

Texas Register Publication Date: October 21, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$22,980

Amount Deferred for Expedited Settlement: \$4,596

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$534

Total Due to General Revenue: \$17,850

Payment Plan: 35 payments of \$510 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41836
Whole Woman's Health of Austin, LLC
RN106143704
Docket No. 2011-0954-MSW-E

Investigation Information

Complaint Date(s): March 28, 2011

Complaint Information: Alleged the disposal of medical waste in a dumpster.

Date(s) of Investigation: April 14, 2011

Date(s) of NOE(s): June 1, 2011

Violation Information

1. Failed to package and identify untreated medical waste using labels affixed to each container that contain all required information. Specifically, weights were not recorded on boxes of untreated medical waste prior to shipment [30 TEX. ADMIN. CODE § 330.1207(c)(5)].

2. Failed to treat and dispose of pathological waste according to approved methods of treatment and disposition. Specifically, the Respondent allowed its pathological waste, including fetuses, to be treated by steam disinfection treatment followed by deposition in a municipal solid waste landfill [30 TEX. ADMIN. CODE § 330.1219(b)(3)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:

- a. Began disposing of pathological waste according to approved methods of treatment and disposition on May 19, 2011; and
- b. Implemented procedures to package and identify untreated medical waste using labels affixed to each container that contain all required information on June 20, 2011.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

Executive Summary – Enforcement Matter – Case No. 41836
Whole Woman's Health of Austin, LLC
RN106143704
Docket No. 2011-0954-MSW-E

TCEQ Enforcement Coordinator: Brianna Carlson, Enforcement Division,
Enforcement Team 7, MC R-15, (956) 430-6021; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Amy Hagstrom Miller, President, Whole Woman's Health of Austin,
LLC, 8401 North Interstate Highway 35, Suite 1A, Austin, Texas 78753-5753

Respondent's Attorney: John Bucy II, Law Firm of John H. Bucy II, 6633 East
Highway 290, Suite 208, Austin, Texas 78723-1157



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	6-Jun-2011	Screening	9-Jun-2011	EPA Due	
	PCW	25-Aug-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Whole Woman's Health of Austin, LLC		
Reg. Ent. Ref. No.	RN106143704		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41836	No. of Violations	2
Docket No.	2011-0954-MSW-E	Order Type	1660
Media Program(s)	Medical Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Brianna Carlson
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$27,700**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment for compliance history.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$4,720**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$372
Approx. Cost of Compliance \$1,800
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$22,980**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$22,980**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$22,980**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$4,596**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$18,384**

Screening Date 9-Jun-2011

Docket No. 2011-0954-MSW-E

PCW

Respondent Whole Woman's Health of Austin, LLC

Policy Revision 2 (September 2002)

Case ID No. 41836

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106143704

Media [Statute] Medical Waste

Enf. Coordinator Brianna Carlson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 9-Jun-2011

Docket No. 2011-0954-MSW-E

PCW

Respondent Whole Woman's Health of Austin, LLC

Policy Revision 2 (September 2002)

Case ID No. 41836

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106143704

Media [Statute] Medical Waste

Enf. Coordinator Brianna Carlson

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 330.1207(c)(5)

Violation Description

Failed to package and identify untreated medical waste using labels affixed to each container that contain all required information. Specifically, weights were not recorded on boxes of untreated medical waste prior to shipment.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

20% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 147

1130 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$14,700

One Hundred Forty-Seven single events are recommended, one for each manifest.

Good Faith Efforts to Comply

10.0% Reduction

\$1,470

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent came into compliance on June 20, 2011.

Violation Subtotal \$13,230

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$31

Violation Final Penalty Total \$13,230

This violation Final Assessed Penalty (adjusted for limits) \$13,230

Economic Benefit Worksheet

Respondent Whole Woman's Health of Austin, LLC
Case ID No. 41836
Reg. Ent. Reference No. RN106143704
Media Medical Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$200	5-May-2008	20-Jun-2011	3.13	\$31	n/a	\$31
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement procedures to ensure untreated medical waste is properly labeled. The date required is the date of the first documented manifest and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$31

Screening Date 9-Jun-2011

Docket No. 2011-0954-MSW-E

PCW

Respondent Whole Woman's Health of Austin, LLC

Policy Revision 2 (September 2002)

Case ID No. 41836

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106143704

Media [Statute] Medical Waste

Enf. Coordinator Brianna Carlson

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 330.1219(b)(3)

Violation Description

Failed to treat and dispose of pathological waste according to approved methods of treatment and disposition. Specifically, the Respondent allowed its pathological waste, including fetuses, to be treated by steam disinfection treatment followed by deposition in a municipal solid waste landfill.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 13

1108 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$13,000

Thirteen quarterly events are recommended for the time period from the May 5, 2008 shipment date to the May 19, 2011 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$3,250

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent came into compliance on May 19, 2011 prior to the Notice of Enforcement dated June 3, 2011.

Violation Subtotal \$9,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$340

Violation Final Penalty Total \$9,750

This violation Final Assessed Penalty (adjusted for limits) \$9,750

Economic Benefit Worksheet

Respondent Whole Woman's Health of Austin, LLC
Case ID No. 41836
Reg. Ent. Reference No. RN106143704
Media Medical Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,600	5-May-2008	19-May-2011	3.04	\$16	\$324	\$340
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement procedures to prevent unauthorized disposal of pathological waste. The date required is the date of the first documented unauthorized disposal, and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,600

TOTAL

\$340

Compliance History

Customer/Respondent/Owner-Operator: CN603853805 Whole Woman's Health of Austin, LLC Classification: Rating:
Regulated Entity: RN106143704 Whole Woman's Health of Austin Classification: Site Rating:

ID Number(s): MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER RN1110614370
Location: 8401 N IH 35 STE 200, AUSTIN, TX, 78753
TCEQ Region: REGION 11 - AUSTIN
Date Compliance History Prepared: June 07, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 07, 2006 to June 07, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Brianna Carlson Phone: 956/430-6021

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
- 6.

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
WHOLE WOMAN'S HEALTH OF
AUSTIN, LLC
RN106143704**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-0954-MSW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Whole Woman's Health of Austin, LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by John Bucy II, Attorney, appear before the Commission and together stipulate that:

1. The Respondent owns and operates a medical clinic at 8401 North Interstate Highway 35, Suite 200 in Austin, Travis County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 5, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Two Thousand Nine Hundred Eighty Dollars (\$22,980) is assessed by the Commission in settlement of the violations alleged

in Section II ("Allegations"). The Respondent has paid Five Hundred Thirty-Four Dollars (\$534) of the administrative penalty and Four Thousand Five Hundred Ninety-Six Dollars (\$4,596) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Seventeen Thousand Eight Hundred Fifty Dollars (\$17,850) of the administrative penalty shall be payable in 35 monthly payments of Five Hundred Ten Dollars (\$510) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Began disposing of pathological waste according to approved methods of treatment and disposition on May 19, 2011; and
 - b. Implemented procedures to package and identify untreated medical waste using labels affixed to each container that contain all required information on June 20, 2011.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to package and identify untreated medical waste using labels affixed to each container that contain all required information, in violation of 30 TEX. ADMIN. CODE § 330.1207(c)(5), as documented during an investigation conducted on April 14, 2011. Specifically, weights were not recorded on boxes of untreated medical waste prior to shipment.
2. Failed to treat and dispose of pathological waste according to approved methods of treatment and disposition, in violation of 30 TEX. ADMIN. CODE § 330.1219(b)(3), as documented during an investigation conducted on April 14, 2011. Specifically, the Respondent allowed its pathological waste, including fetuses, to be treated by steam disinfection treatment followed by deposition in a municipal solid waste landfill.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Whole Woman's Health of Austin, LLC, Docket No. 2011-0954-MSW-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes

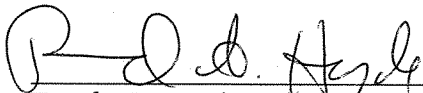
aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

11/17/11


Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

9/15/11

Date

Amy Hagstrom Miller

Name (Printed or typed)
Authorized Representative of
Whole Woman's Health of Austin, LLC

President

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.